

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Greg Poor,**  
Petitioner-Appellant,

v.

**Pottawattamie County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 09E-78-1771**  
**Parcel No. 7444 12 351 009**

On October 11, 2010, the above-captioned appeal came before the State of Iowa Property Assessment Appeal Board. The hearing was conducted pursuant to Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Greg Poor submitted evidence in support of his petition and was self-represented at hearing. The Respondent-Appellee, Pottawattamie County Board of Review, designated Assistant County Attorney Leanne A. Gifford as its legal representative and she represented it at hearing. A digital record of the proceedings was made. Both parties submitted evidence in support of their position. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Greg Poor, owner of a commercial property located at 802 Veterans Memorial Highway, Council Bluffs, Iowa, appeals from the Pottawattamie County Board of Review decision reassessing his property. The parcel consists of eleven 224 square-foot identical rental cabins built in 1959, a one-story 1096 square feet of gross building area (GBA) built in 1959, and a two-story 12 room hotel, office and apartment building with 2828 square feet GBA. The parcel also has 1000 square feet of concrete paving, a 408 square-foot garage, yard lighting and a billboard on a 1.92 acre site.

Historically, the real estate was classified as commercial on the assessment of January 1, 2009, and valued at \$233,200, representing \$43,800 in land value and \$189,400 in improvement value.

Subsequently, the Iowa Department of Revenue issued an 15% equalization order for commercial property in the County. The application of the equalization order increased the assessment of the property to \$268,180, representing \$50,370 in land value and \$217,810 in improvement value.

Poor protested the application of the equalization order to the Board of Review asserting the order resulted in the property being valued in excess of that permitted under Iowa Code section 441.21. He contended comparable property has lower assessed land values. He reports the 2009 purchase price of the property is not indicative of its market value. The Board of Review denied the appeal indicating Poor's evidence was not sufficient to prove the assessment was excessive.

Poor then appealed to this Board reasserting his claim. He disagrees with the increased assessment resulting from the application of the equalization order and seeks relief of \$53,930 for a total valuation of \$233,200, allocated \$43,800 to land value and \$189,400 to improvement value.

Poor testified he purchased the subject parcel with an adjoining parcel for \$825,000 on contract in 2009. He reported the contract was subsequently amended to reduce the price to \$650,000, then to \$525,000, and he is currently attempting to renegotiate a lower price. Poor believes the deep lot with limited highway frontage limits its use and reduces its market value. He testified the waterlines are eroded and the buildings deteriorated. He reports the occupancy rate is lower than when the property was purchased and billboard rent has declined from \$3500 to \$1200 annually. He compares the subject property assessment to other properties in the area with assessed land values ranging from \$0.51 to \$1.50 per square foot. The subject land is assessed at \$0.60 per square foot which is well within the range of nearby land assessments. He also reports sale prices ranging from \$2.56 to \$3.54 per square foot indicating market value well above Poor's land assessment.

The Board of Review has no witnesses, however, it submitted an exhibit of fourteen 2002 to 2010 sales in the vicinity of the subject property. The 2008 land sales<sup>1</sup> indicate a range from \$1.23 to

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<sup>1</sup> According to the exhibit, these parcels were generally vacant land or had the buildings removed after sale.



\$4.50 per square foot. Again, these land sales indicate market value well above Poor's land assessment. Viewing the evidence as a whole, we are persuaded the preponderance of the evidence failed to support Poor's claim the application of the equalization order resulted in an excessive assessment.

### *Conclusions of Law*

The Appeal Board applied the following law.

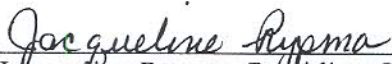
The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).


The basis of an equalization appeal is that the property assessment, if adjusted by the equalization order issued by the Department, will result in a greater value than permitted under Iowa Code section 441.21. Iowa Code § 441.49. The Appeal Board may adjust all or part of the percentage increased ordered by adjusting the actual value of the property under protest to 100% of the actual value. *Id.* Any adjustment so determined by the Appeal Board shall not exceed the percentage increase provided for in the equalization order. *Id.* Because an equalization appeal considers whether application of the equalization order results in an assessment that is more than fair market value of the property, we only consider the application of this claim and no other grounds asserted by the appellant.

The Appeal Board finds the evidence does not support a determination the application of the equalization order resulted in an assessment in excess of the subject property's fair market value. We affirm the assessment of the Poor property, as determined by the November 2009 Pottawattamie County Board of Review decision.

THE APPEAL BOARD ORDERS the property assessment of \$268,180, representing \$50,370 in land value and \$217,810 in improvement value, as of January 1, 2009, set by the Pottawattamie County Board of Review is affirmed.

Dated this 2 day of NOVEMBER 2010.

  
Jacqueline Rypma, Presiding Officer

  
Karen Oberman, Board Chair

Copies to:  
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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>11.2</u> , 201 <u>0</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier <input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	